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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,691	03/04/2005	Kensuke Honma	2830-0173PUS1	2436
2292 7590 05/16/2007 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER HAMO, PATRICK	
			ART UNIT	PAPER NUMBER
			3746	
			NOTIFICATION DATE	DELIVERY MODE
			05/16/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

## Office Action Summary

Application No.

10/500,691

Applicant(s)

HONMA ET AL.

Examiner

Patrick Hamo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>02 Jul 04, 27 Jan 05</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gherner, Pat No. 4,223,594 in view of Hayashi et al., 4,781,022.

Gherner discloses a rotary fluid machine comprising a casing 2, a rotor 27 rotatably supported in the casing by bearings 13 and 14, an operating part consisting of pistons 38 and 39 in cylinders 30 and 31 provided in the rotor, and a distribution plate 3 provided between the casing and the rotor that controls the intake and discharge of a working medium to and from the cylinders (col. 5, ll. 48-68) via a sliding surface (where rotor 27 contacts plate 3) perpendicular to the axis of the rotor (see fig. 1).

Gherner does not disclose a working medium supply pipe provided separately from the rotary valve positioned on the axis of the rotor and supplying the working medium to the rotary valve, and sealing means disposed between the working medium supply pipe and the rotary valve having the function of preventing movement of the working medium supply pipe in the axial direction of the rotor from being transmitted to the rotary valve.

However, Hayashi teaches a swash plate type hydraulic system with a hydraulic oil feed pipe 64 along the axial line of a primary rotating body, cylinder block B, and

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feeding oil axially into a group of distributor valves 45, 46, and a sealing circlip 26 disposed between the two ensuring that the cylinder block, which houses the valves, is secured to the output shaft 25, circlips being known in the art to prevent movement of a shaft, the oil feed pipe constructed axially so as to receive oil from a collection pan 69 provided at the bottom of the case, using gravity to aid in a more constant supply of oil (col. 13, ll. 30-43).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the rotary fluid machine of Gherner with the supply pipe of Hayashi in order to ensure a more constant supply of oil.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above in view of Ito, 3,887,305.

The references as applied to claim 1 and discussed above teach all of the limitations substantially as claimed except for the sealing means being a gland packing.

However, Ito teaches a reciprocating pump that has gland packings 9 and 10 arranged to prevent a leak through a piston, and fluid recovery means to obviate the disadvantage of a reciprocating machine in which the seal is exposed to the atmosphere, causing it to be worn down, and which has the advantage that the leaked liquid is sent back to the suction side (col. 1, ll. 45-50).

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the rotary fluid machine of Gherner with the axial

supply pipe of Hayashi and further with the gland packing and recovery means of Ito in order to provide a seal with long life and to conserve leaked working fluid.

### ***Conclusion***

Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims 'define a patentable invention' without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, 'The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims.'" Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick Hamo whose telephone number is 571-272-3492. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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